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DECISION



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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-205385

DATE: November 19, 1981

MATTER OF: Joerns Furniture Company, Inc.

DIGEST:

Protest by bidder against alleged solicitation impropriety filed (received) at GAO after bid opening is untimely under 4 C.F.R. § 21.2(b)(1) and letter of protest submitted with bid is also untimely protest since protest contained in bid submission is not protest before bid opening under our Bid Protest Procedures.

Joerns Furniture Company, Inc. (Joerns), protests provisions of solicitation No. DAKF23-81-B-0175, issued by the Department of the Army (Army), which allegedly restrict the procurement to one manufacturer.

Section 21.2(b)(1) of our Bid Protest Procedures (4 C.F.R. part 21 (1981)) requires protests based on alleged improprieties in a solicitation which are apparent prior to bid opening be filed prior to bid opening. The provisions protested by Joerns were contained in the solicitation. The protest was filed (received) with our Office on November 2, 1981, after bid opening on October 26, 1981. Therefore, Joerns' protest was untimely filed.

While Joerns enclosed a letter with its bid protesting the restrictive nature of the solicitation, this protest to the agency was also untimely since a protest of an alleged solicitation impropriety filed with the bid package is not timely filed before bid opening. AM Multigraphics, B-196735, January 8, 1980, 80-1 CPD 23.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel